

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER

SHRI RAGHU NAYYAR,
HON'BLE TECHNICAL MEMBER

IA No. 318/JPR/2021
In CP No. (IB)- 235/7/JPR/2019

(Under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

IN THE MATTER OF

M/S NAND KISHORE PARIHAR & ORS.

... Operational Creditor

VERSUS

M/S RAJHANS INDUSTRIES PVT. LTD.

... Corporate Debtor

AND IN THE MATTER OF:

IA No. 318/JPR/2021

Prashant Agrawal

F-106, First Floor, Sumer Complex,
Gautam Marg, Behind Bagadia Bhawan,
C-Scheme, Jaipur-302001
Rajasthan

...Applicant

VERSUS

Nand Kishore Parihar

2-C, Royal Residency Apartment,
11th Surya Colony, Near Polytechnic College,
Residency Road, Jodhpur-342001
Rajasthan

...Respondent No.1

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Jugal Kishore Parihar,
“LG Mansion”, 40 Indra Vihar, Section Ext,
New Power House Road, Jodhpur-342003
Rajasthan

...Respondent No.2

Parveen Kishore Parihar,
C-802, Marudhar Heights, Narayan Sagar Scheme,
Near Pachranga Resorts, AIIMS Road,
Jodhpur-342008, Rajasthan

...Respondent No.3

Vinod Parihar,
40, Indra Vihar, New Power House Road,
Jodhpur-342003, Rajasthan

...Respondent No.4

For the Applicant : **Prashant Agrawal, RP**

For the Respondent : **Shivangshu Naval, Adv.**

Order pronounced on: 09.11.2021

ORDER

Per: Shri Raghu Nayyar, Technical Member

This is an application under Section 12-A of the IBC, 2016 read with Regulation 30-A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 submitted by the Resolution Professional (RP) of the Corporate Debtor (M/s Rajhans Industries Pvt. Ltd.) for withdrawal of the matter admitted under Section 7, bearing No. Company Petition (IB) No. 235/JPR/2019.

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2. It is submitted that CIRP application against the said Corporate Debtor was admitted vide order dated 05.08.2021 in terms of Section 7. A public announcement in Form-A was duly made. The IRP constituted the Committee of Creditors in compliance of Section 18(1)(c) and Section 21(1) of the Code. It is also submitted that in the first meeting of the CoC held on 03.09.2021, the IRP was appointed as Resolution Professional (RP) as per the provisions of Section 22(3)(a) of IBC, 2016. The RP had appointed two registered valuers for each asset class to determine the fair value and liquidation value of the Corporate Debtor.

3. Around the same time, an application bearing No. Company Appeal (AT)(Insolvency) No. 632 of 2021 was moved before the Hon'ble NCLAT by Mr. Jugal Kishore Parihar (suspended director of the Corporate Debtor), against the impugned admission order dated 05.08.2021 for commencement of CIRP. Subsequently, the RP received an e-mail from Mr. Jugal Kishore Parihar on 11.09.2021 wherein he showed his willingness to pay a sum of Rs. 29,50,583 /- to Mr. Nand Kishore Parihar (applicant). Thereafter, the RP called the second meeting of CoC on 22.09.2021 and the RP received an e-mail from Mr. Nand Kishore Parihar, (the applicant for initiating CIRP) duly submitting Form-FA as per the provisions of Section 12-A of the Code, read with Regulation 30-A of CIRP Regulations, 2016. The RP sought voting of the CoC with regard to withdrawal of application admitted under Section 7 of the IBC, 2016. The said

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agenda was duly discussed in detail by the Committee of Creditors (CoC) and the following resolution was passed: -

“Resolved that the withdrawal of the application admitted under Section 7 of the Code, bearing Diary No. 1701/2019 dated 28.08.2019, represented by Case No. CP (IB)-235/7/JPR/2019 is approved by the members; and the Resolution Professional is hereby authorized to submit application in respect of withdrawal of said application before the Hon’ble Tribunal, Jaipur Bench as per the provisions of the Code, read with relevant Regulations”.

4. The true copy of the minutes of the second meeting of the CoC along with e-voting results is attached as Annexure-5 to the application. Subsequently, in the hearing of the aforesaid Company Appeal (AT)(Ins.) No. 632 of 2021, i.e on 23.09.2021, learned counsel of appellant apprised the Hon’ble NCLAT that the matter has been settled between the appellant and Nand Kishore Parihar amicably and the necessary settlement agreement shall be moved before the Hon’ble NCLT, Jaipur Bench. On such submission by the appellant and no objection of the respondent, the Hon’ble Appellate Authority ordered a stay of the proceedings of CIRP till next date i.e., 22.10.2021. The true copy of order dated 23.09.2021 of Hon’ble Appellate Tribunal is attached and marked as Annexure-7. The Hon’ble NCLAT ordered as follows: -

In terms of the order dated 23.08.2021, learned counsel for the respondents were directed to file hard copy of the reply affidavit. Further, the matter was directed to be listed today under the heading ‘For Admission (After Notice)’.

Sd—

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Today, when the case was called out learned counsel for the parties submitted that there is pendency in this Appeal and the parties have settled the matter amicably.

Further, learned counsel for the parties submits that they will move along with the 'Settlement Agreement' to the Learned Adjudicating Authority, within four days and prays for the CIRP proceeding to be stayed.

Learned counsel for the respondents have no objection.

List this matter 'For Orders' on 22nd October, 2021.

In the meanwhile, further proceedings of CIRP shall remain stay till next date.

5. On 22.10.2021, that matter was listed again before the Hon'ble NCLAT, and the Appellate Authority extended the stay till 10.11.2021. On the same day it was listed before this Adjudicating Authority for withdrawal and order was reserved on instant application for withdrawal / settlement.

6. The Resolution Professional (RP) has sought consideration of the withdrawal / settlement application in view of the fulfilment of the following conditions: -

a) Receipt of Form-FA from Mr. Nand Kishore Parihar copy all attached as Annexure-4;

b) Submission of demand drafts towards estimated cost of CIRP by Mr. Praveen Kishore Parihar; and

c). Passing of resolution by the members of CoC with 95.25% voting approving the withdrawal of application admitted under Section 7 of the Code;

7. In view of the settlement of the matter as aforementioned, approval by CoC and submission of Form-FA, the instant application for withdrawal is

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considered. For the reasons mentioned in the application and in view of the compliance of the requirements of the Code and Regulations thereunder, the instant IA is allowed and accordingly CP No. 235/7/JPR/2019 is allowed to be withdrawn. The respondent Corporate Debtor is released from all the rigours of insolvency proceedings. The moratorium shall cease to have effect. The Board is restored and the RP shall handover the possession / control of the Corporate Debtor and return the record, if any, to the Board. The RP is discharged accordingly.

IA No. 318/JPR/2021 and CP No. 235/7/JPR/2019 are accordingly disposed of as settled / withdrawn.

Sd—

(Raghu Nayyar)
Technical Member
M.S.

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(Deep Chandra Joshi)
Judicial Member